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hat more than overtop any like offering ou've seen for weeks past.

1st. It's 500 pairs of real Kid Gloves; will all them odds and ends, because there are hree or four price goods in them. The heapest is worth \$1 a pair, and the best eadily brings \$1.50. Ladies' and children's less, and most all colors.

50c the Pair 2d. 100 boxes-50 dozen-no more-Ladies' extra quality fine black Lisle Thread Hosiery, Hermsdorf dye, plain and drop stitch, 55c, 60c and 65c values, and all we say is

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3d. 500 of the best 26-inch 8-rib paragon frame, Silk Gloria Umbrellas, natural wood, fancy stick, and only \$1 Each 4th, and last. 2 cases of Ladies' fine ribbed

Egyptian cotton fleece-lined Pants, and two cases of combed Egyptian cotton, fleece-lined Vests, silk finished, 25c Each THURSDAY ONLY

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Frames,

(For Balance of Week Only.) DOLLAR DAY 81 This time it is One Lot MEN'S STREET and DLEss GLOVES. Our own exclusive make. In stock yester ay at \$1.50 (one dollar and fity cents), now 100 cents a pair.

Dladies should get a pair of these for their husbands. This week only.



Y. W. C. A. OPENING.

Mrs. F. F. McCrea, and the board of directors formed the reception committee. and a number of young ladies served tea and wafers. The rooms are commodious fancy. One feature of the work, in which the young women, and older ones as well, will be interested, is the Noon Rest. This is a place where the young woman who works in town and brings her luncheon she may get an entire luncheon for ten, the snowiest, the porcelain china is neat, and the appointments, which are extremely simple, are bright and shining.

Last evening a public meeting in the interest of the work was held at Meridianstreet Church. There was a large attendance. Mrs. McCrea presided. After the singing of a hymn, Rev. F. O. Ballard, of Memorial Church, read a Scripture lesson and made a prayer. Mrs. McCrea then introduced Miss Bradshaw, who is largely identified with this work and who will remain to this city for a short time as the main in this city for a short time as the main in this city for a short time as the general secretary of the association. Miss Bradshaw spoke of the ideal Y. W. C. A. as an institution which ministers to the physical, intellectual, social and spiritual side of the young woman's nature. She related a number of instances of the good done. First, in building up the physique and making the women well and strong in the gymnasium, which is conducted by a graduated teacher of physical culture; of the intellectual progress made in some of the many classes; of the benefit of taking young women into the home and social life; of the opportunity for the society woman, with no particular work to do, to find a place for active usefulness, and lastly of the spiritual gain. Miss Bradshaw took for a text "I am come that ye may have life the spiritual gain. Miss Bradshaw took for a text "I am come that ye may have life more abundantly," and showed how this may be fulfilled in the work of the association. Following her, Mrs. Goetz sang a song, without accompaniment, and then Miss Taylor, of the international committee, spoke briefly.

A second reception was held last evening immediately after the meeting, at the rooms, which are directly opposite Meridian-street Church, and next door to

MUST SERVE HIS TIME

Exhaustive Opinion Shows that th Instructions of the Lower Court Contained No Errors.

The Supreme Court yesterday affirmed the decision of the Marion Criminal Codrt in the case of Winnie Smith, charged with the murder of Western B. Thomas. The opinion by Chief Justice Howard, is as follows: "The appellant was indicted for murder in the first degree, for the killing of Western B. Thomas. On the trial he was found suilty of manslaughter, and was sentenced to imprisonment in the State's prison for eighteen years.

eighteen years.

"The only error assigned in this appeal is the overruling of the motion for a new trial. Under this assignment it is first contended that the court erred in giving to the jury. of its own motion, instruction No. 20. The instruction reads as follows:

"If you believe from the evidence that any witness, before testifying in a scase, has made any statements out of court concerning any of the material matters materially different and at variance with what he or she has stated on the witness stand, then the jury are instructed by the court that these facts tend to impeach either the recollection or the truthfulness of the witness, and the jury should consider these facts in estimating the weight which ought to be given to his or her restimony, and if the jury believe from the evidence that the moral character of any witness or witnesses have been successfully impeached on this trial, then that fact should also be taken into consideration in estimating the weight which ought to be given to the testimony of such witness or witnesses."

"It is objected that, "in giving the first "It is objected that, "in giving the first or the such witness or witnesses." which ought to be given to the testimony of such witness or witnesses.'

"It is objected that, 'in giving the first part of the instruction, the court clearly invaded the province of the jury, as to the weight to be given to evidence, by telling the jurors, as a matter of law, what certain evidence tended to prove.' And a dictum is quoted from Guetig vs. State (63 Ind., 282), to the effect that 'What evidence proves or tends to prove, after it has gone to the jury, is a question solely for the jury to decide; it is error for the court to interfere with their decision upon the weight of evidence by an instruction.'

"In the Guetig case there was evidence

"In the Guetig case there was evidence introduced at the trial which tended to prove that the appellant was subject to attacks of epilepsy. There was in that case, also, evidence tending to show that epilepsy is a disease which tends to produce insanity. The insanity of the appellant was urged as his main defense. Under these in that case that 'This evidence would not be sufficient to raise a reasonable doubt of appellant's sanity at the time of the alleged appellant's sanity at the time of the alleged commission of the homicide.' The instruction was condemned by this court 'because it directly states that certain evidence which is legitimately before the jury is not sufficient to prove a certain fact, or to raise a reasonable doubt of a certain fact.' There can be no question that the ruling so made was correct. The instruction directly charged the jury as to what weight they should give to the evidence. That is a matter exclusively within the province of the jury. The decision in that case, however, goes no farther, and we do not think it is authority on the point now before us.

"The evidence referred to in the instruction in the case at bar was concerning statements made by a witness out of court materially different from those made by the witness in court. As to such evidence of statements made out of court, the words ob-

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30-inch wool Seal, Marten trimmed all around the trip wool the trip wool tend to prove any material issue in the case, or to impeach a witness, and the witness artend to impeach the testiments mate out of the witness and the witness and the instruction was to such evidence of the witness and not

the jury as to the law, and also that in charging the jury he must state to them all the matters of law which are necessary for their information in giving their verdict.

"It was certainly necessary for the information of the jury that they should be told the nature of the testimony referred to; namely, that it was impeaching—that it was not introduced to prove any issue in the case, but solely tended to impeach either the recollection or the truthfulness of the witness." Otherwise, and had the instrucwitness.' Otherwise, and had the instruction not been so given, the jury might have thought it their duty to apply the evidence to the issues in the case. It was thus in the interest of appellant himself, as well as of the State, that the jury should be informed that that the tendency or purpose of such evi-dence was solely to discredit a witness, and not to establish any issue, either for or against either party.

THE USE OF IMPERATIVES. "It is also claimed to be error that the court charged that 'the jury should consider' the impeaching evidence introduced Rooms Ready for Members and Noon in estimating the weight which ought to be report, recommending the discharge of given to the testimony of a witness, and Julia Carsell, accused of mixing poison in should also, for the same purpose, take into the coffee of Charles Warfield; also of The new rooms for the Young Woman's | consideration the fact, if they should so find | Frank McCarty, accused of receiving stoler Christion Association were opened to the it, that the moral character of any witness public yesterday afternoon from 2 to 5 had been successfully impeached. We do o'clock for a reception. The president, not think that in making this charge the court invaded the province of the jury. It cannot be doubted that, under the law, it court invaded the province of the jury. It cannot be doubted that, under the law, it is the duty of the jury to consider all evidence introduced on the trial and not withdrawn by the court. The evidence is introduced for that very purpose, namely—that it may be considered for what it is worth. What weight, if any, the jury may give to any item of evidence is for them to say; but they are not justified in failing to give consideration to the evidence brought before them. And, surely, if it is their duty to consider the evidence, it cannot be error for the court to so tell them. The very purpose of the instructions of the court is to inform the jury of their duty.

"It has sometimes been said that the word 'should' in such charge is too imperative a character—that the expression ought to be "it is the duty of," or "it is the province of the jury.' And we are inclined to think that it might be better to use such permissive form, rather than the seemingly imperative word here used. It would be better that there should not be even the appearance of error. Yet it is but a matter of expression and the essential meaning to

be better that there should not be even the appearance of error. Yet it is but a matter of expression and the essential meaning is not changed. In any of the forms used the jury are told only what is their duty, namely, to emsider the evidence adduced on the trial. What weight, if any, ought to be given to such evidence, is for the jury alone to say, and the instruction does not touch upon that right. Neither is it true that the instruction singles out or discredits any instruction singles out or discredits any witness or class of witnesses. The language used by the court is general in form, and applies to all witnesses who may be affected by it, without specifically pointing out any. "It is next insisted that the court erred in refusing to give instruction Number 17, asked by the defendant, which is as follows:

"And at this point the court instructs you as to the defense set up by the accused, that he killed Thomas in self-defense, that in order for the defendant to succeed under that plea, it is not required that the evidence should satisfy that the killing was justifiable, under the doctrine of self-defense as hereinbefore given. Under this plea the defendant cannot be convicted if upon the whole evidence you or one of you en-tertain a reasonable doubt whether the kill-ing was not done under such circumstances as rendered it justifiable. "The contention here made is that no

where is there any instruction given which covers the part covered by this instruction namely, that the rule of a reasonable doubt smediately after the meeting, at the come, which are directly opposite Median-street Church, and next door to symouth Church. All information in relief the record is that of self-defense. The Plymouth Church. All information in regard to the classes and the work which will be done may be procured at the rooms.

No. 139 North Meridian street, where there is always some one in charge.

In the record is time, place and circumstances of the killing are not in dispute, nor is the fact that the killing was done by the appellant. The sole issue on the trial was whether the killing was excusable on the plea of self-with that condition of affairs, we Charles F. Sayles has purchased the lot, in which the burned Eastman, Schleicher the Lee store stood for \$90,000. This is at the rate of about \$3,000 a front foot. The lot was owned by E. P. Pettis. The new owner will creet a block similar to the old one on the site.

Bedrosm Sets in all woods—Wm. L. Elden.

defense. With that condition of affairs, we think the instructions given by the court fully covered that here requested. In two instructions—the tenth and the thirteenth—the court fully advised the jury as to the rights of the appellant under the plea of self-defense, the only plea made by him in the eleventh instruction the presumption of innucence is dwelt upon, and the jury are admonished that the appellant cannot be convicted of even the lowest degree of crime covered by the indictment until the evilance to a fact is not in the avidence to a fact is not in the self-defense to the fully covered that here requested. In two instructions—the tenth and the thirteenth—the court fully advised the jury as to the rights of the appellant under the plea of the parties have been previously and such wife or husber. Not the fully covered that here requested. In two instructions—the tenth and the thirteenth—the court fully advised the jury as to the rights of the parties have been previously and such wife or husber. Not the fully covered that here requested. In two instructions—the tenth and the thirteenth—the court fully advised the jury as to the rights of the parties have been previously and such wife or husber. Not the fully covered that here requested. In two instructions—the court fully advised the jury as to the rights of the speciment existed to the parties have been previously and such wife or husber. Not the fully covered that here requested. In two of law it is presumed that the pediments existed to the parties have been previously and such wife or husber. Not fully covered that the pediments existed to the f defense. With that condition of affairs, we

dence satisfies them, and each one of them, of the existence of every ingredient of the crime charged. In the twelfth instruction the jury are fully informed on the doctrine of reasonable doubt, as applied to this case, and they are told that before conviction they must be confirmed beyond reasonable doubt by the evidence, of whatever class if may be, and considering all the facts and circumstances in the evidence as a whole. Even more than this, the court in its first instruction, after stating the charge as made in the indictment, sets forth the appellant's defense, making also specific allusion to the plea of self-defense, the only excuse urged, or that could be urged, by him, for the killing. To this indictment, says the court, 'the defendant enters the general plea of "not guilty." Upon the issue thus joined the burden is upon the State to prove, beyond all reasonable doubt, every material allegation of the indictment, that he actually killed Western B. Thomas, in manner and form, and at the time charged in the indictment, and that such killing was done under such circumstances as the law will not excuse. Had the killing been done in the indictment, and that such killing was done under such circumstances as the law will not excuse. Had the killing been done in self-defense the law would have excused it, and that the killing was not so done, that such excuse does not exist, must be proved by the State, savs the instruction, beyond all reasonable doubt. We think, therefore, that the jury were, in fact, fully informed that the rule of reasonable doubt applied to the whole case, and to every specific part of it, including the defense of self-defense. Consequently there was no error in refusing to give instruction number seventeen, as requested. seventeen, as requested.

INSTRUCTION TWENTY-THREE. "Complaint is next made that the cour refused to give instruction number twentythree, asked by the appellant, and in which the facts claimed to have been proved by him, with the law applicable thereto, are stated, and the law claimed to apply thereto, relate to appellant's plea of self-defense. The court gave twenty-one carefully prepared instructions, in which the jury were very fully and fairly informed of their duty as to the whole case, and also as to the rules of law applying thereto. The in-structions relating to self-defense were most favorable to the appellant.
"As said in Koerner vs. State (98 Ind., 7),

"As said in Koerner vs. State (98 Ind., 7), "When the court has put the whole case to the jury by proper and full instructions, as was done in this case," it is not necessary to instruct upon each separate item of evidence, nor to direct the jury to determine between the different theories of the State and the accused. The tenth instruction given by the court was as follows:

"The defendant insists that the killing of Western B. Thomas was done in self-defense and this requires the court to instruct you as to the doctrine of self-defense. One man may kill another under such circumstances as that the homicide constitutes no crime, but is justified by the law. The doctrine of self-defense as applied by the evidence in this case may be thus defined: "Where a person being without fault and is in a place where he has a right to and is in a place where he has a right to be, so far as his assailant is concerned, is violently assaulted, he may, without re-treating, repel force by force, and he need not believe that his safety requires him to kill his adversary in order to give him right to make use of force for that purpose. When from the acts of his assailant he believes and has reasonable ground to believe that he is in danger of losing his life or receiving great bodily harm from his adversary the right to defend himself from such danger or apprehended danger may be exercised by him, and he may use it to any extent which is reasonably necessary, and if his assailant is killed as a result from the reasonable defense of himself he is excusable. The question of the existence of such danger, the necessity or apparent necessity, as well the necessity or apparent necessity, as well as the amount of force necessary to employ to resists the attack can only be determined from the standpoint of the defendant at the time and under all the existing circumstances. Ordinarily, one exercising the right of self-defense is required to act upon the instant and without time to deliberate and investigate, and under such circumstances the danger which exists only in appearance is as real and imminent as

it were actual.' "With this instruction, so full and com-plete on the law of self-defense and so fa-vorable to the appellant, and with others on the subject of reasonable doubt and or the presumption of innocence, with still an-other on self-defense as an excuse for killing an adversary, we cannot see that the appellant suffered any harm by the refusa of the court to give instruction twenty-

of the court to give instruction twentythree, as requested.

"It is contended that the verdict is not
supported by the evidence. The verdict wafor manslaughter. There is no question that
the deceased was unarmed and that the
appellant cut his throat with a knife, causing death in a few moments. We think
that from the evidence of those present,
even from that of the appellant himself
the jury might conclude, without any reasonable doubt, that the appellant unlawfully
killed the deceased, voluntarily and upon a
sudden heat, and that he had not the excuse of self-defense for his act. It is uncertain from the evidence whether the deceased simply laid his hand upon appellan
in a sort of maudlin familiarity, or whethe
he struck at appellant with his fist afte
they began quarreling. It is certain, however, that the deceased was unarmed, and,
at most, that in their scuffle he struck appellant with his fist. But, as a general rule,
the law will not excuse one who repels a the law will not excuse one who repels a blow with the fist by stabbing his assaiant. (Presser vs. State, 77 Ind., 274; Floyd vs. State, 91 Am. Dec., 766; 21 Am. and Englence. Law, 1059.) And the jury might well find from the evidence that there were no circumstances why the case at bar should form an exception to this general rule. form an exception to this general rule.

"A like contention is made as to whether two of the jury had not expressed opinions. as to the merits of the case before they were selected to try it. The court tried the question by bringing together the two jurors and the witnesses who had filed affidayits against them; and all were questions are the court tried to the court tried tried to the court tried tioned under oath, when the court found hat the charge was not sustained. There being evidence to support this decision, we cannot, under the well-established rule, disturb it on this appeal. "There appearing no available error in the proceedings, the judgment is affirmed."

Grand Jury Report. The grand jury yesterday made a final goods. The jury examined 137 witnesses. discharged five cases and returned twentynine indictments. The grand jury com mends the condition of the poorhouse county jail and county workhouse. It recommends that more beds be purchased for the workhouse. Indictments returned and allowed to be made public are as follows: Alonzo Rooker, murder and assault and battery with intent to murder; George Gray, embezzlement; Robert Williams and James Sanderson, arson; George Bernard, burglary; James Solenburg, grand larceny; Isaac Reynolds, Robert Parker, Edward Milburn, burglary; Albert Hunter, issuing forged check; Frank Smock, petit larceny; Frank Smock, grand larceny. Indictments returned and allowed

Smith Gets Six Years. Charles Smith, the colored man indicted in connection with Dewit Nay, who was found guilty and sentenced to fourteen years in the penitentlary, yesterday had his sentence reduced to six years by Judge McCray. The court first granted the moant entered a plea of guilty.

> THE COURT RECORD. Supreme Court.

17208. E. & T. H. Railway Company vs-Tohill. Sullivan C. C. Reversed. Hackney, J.-1. Every fact essential to recovery must appear in the special verdict in order entitle the plaintiff to judgment. system of trains must provide for the reasonable safety of the operators of such trains against accidents, but requirement does not deny the company the right to vary from the time-table, nor does the variance involve negligence. 17643. Smith vs. State of Indiana. Marion C. C. Affirmed. Howard, C. J.—It is not error for the court to charge the jury that it should consider the impeaching evidence in estimating what weight should be given to the testimony of a witness and should also take into consideration the fact if they should find it that the moral character of any witness ban been successfully impeached. 2. When there is sufficient instruction upon a certain point it is not error for the court to refuse to give an additional instruction upon the same point.

3. A person will not be excused from liability who repels a blow with the fist by stabbing his assailant.

4. When the

trial court finds that the evidence against certain jurors does not sustain the charge against them its decision will not be dis-17078. Wenning vs. Teple. Owen C. C. Reversed. Monks, J.-1. A complaint that alleges that the will was unduly executed is sufficient to withstand a demurrer. 2. A bill of exceptions, although signed by the judge, is no part of the record until it is filed. 3 When a that riage has been consummated in accordance with the forms of law it is presumed that no legal impediments existed to the parties entering into such marriage and if shown that either of the parties have been previously married and such wife or husby. To fithe first marriage is still living coer not destroy the prima facie legality of the last marriage. In such case the presumption is that the former marriage was legally dissolved and the burden rests upon the party seeking to impeach the last marriage. 4. When

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they would be correct under any evidence that could be given under the issues. 5. If two or more instructions are inconsistent and calculated to mislead the jury or leave them in doubt as to the law it is a cause for reversal.

17766. Harless vs. Harless. Madison C.
C. Affirmed. McCabe, J.—This court cannot weigh conflicting evidence and deter-

mine where the preponderance is. 2. A party cannot object to an answer he himself calls for. 3. The fact that the relation of attorney and client once existed between a witness and a party does not disqualify such witness to testify as to the disqualify such witness to testify as to the statements of such party so long as it is not proposed to prove by such witness confidential communications made in the course of professional business.

17394. City of Huntington vs. Griffith. Huntington C. C. Petition for rehearing overruled. Hackney, J.—The acceptance of a city charter does not impliedly work an adoption by the city of streets and grades established by the former towns in the sense that under the statute creating a liability the city may not establish a grade.

17218. Wilkins vs. Hare. Madison C. C. 17218. Wilkins vs. Hare. Madison C. C. Affirmed. Jordan, J.-Where a charge is made in the due course of a judicial proceeding it is privileged and cannot be made the basis of an action for defamation of

16996. Wilkens vs. Young. Allen C. C. Motion to modify overruled.
17020. Aetna Life Insurance Company vs. Benson. Motion S. C. Motion to reinstate overruled.

17110. Lilly vs. Somerville. Montgomery
C. C. Motion to reinstate overruled.

17125. Shepherd vs. Goben. Parke C. C.
Petition for rehearing overruled.

Appellate Court. 1592. E. & T. H. Railroad Company vs. Cater. Sullivan C. C. Affirmed. Gavin, J. -Where a passenger calls for and pays or a ticket to one place, but is, by the mistake of the company's agent, given a licket different from that desired, with which he, without fault, boards the train, believing he has the proper ticket, he is intitled to ride thereon the distance for which he has paid upon making the proper explanation, and if the conductor refuses to heed his statements the company is liable for damages.

le for damages.

1558 State ex rel. Cecil vs. Christian.

Iamilton C. C. Reversed. Ross, J.—If the lerk of the Circuit Court issues letters of quardianship in term. time, without the upointment having been made by the court, and by reason of such letters the quardian got possession of his ward's property and squandered it, the clerk will le l'able on his bond.

1713. Board of Commissioners vs. Menugh. Washington C. C. Affirmed. Davis. I.—1. The act of 1875 makes the county board of commissioners the purchasing igent of the county for the purchase of ill stationery, books and all other articles recessary for the business of the county officers. 2. The board of election commissioners is a county officer. sloners is a county office.

1616. Deering & Co. vs. Armstrong.
Boone C. C. Record and papers ordered Superior Court.

Room 3-Pliny W. Bartholomew, Judge. John A. Shepherd vs. Cumberland Chair Company; for receiver. Hearing on claims. Capital National Bank vs. R. A. Curtis et al.; note. Dismissed. Criminal Court.

Frank McCray, Judge. State vs. Samuel Green; sodomy. Trial by jury. Jury out. State vs. Depointz Granger; assault and pattery with intent to rape. Two years in State's prison.
State vs. Charles Smith; sodomy. Motion for new trial sustained. Plea of guilty entered. Sentence of six years in prison. New Suits Filed.

(Superior Court.) William Manion, executor, vs. Margaret Rurk et al.; to foreclose will. Lida Rams vs. John R. Rams; divorce William Weiskoff, administrator, vs. Peter Ferdinand; account. Demand, \$900. Maria Grubaugh vs. Joseph T, Grubaugh; Orpha Conroy vs. James Conroy; di vorce. Cruelty.

William H. Bennett vs. Thomas H. S.
Peck et al.; to revive judgment. Demand,

METHODIST MASS MEETINGS. To-Morrow Will Be Devoted to Prayer and Epworth League Work.

Friday, Oct. 18 was designated at the recent session of the Indiana Conference as a day of fasting and prayer, among the Methodists for the conversion of twenty thousand souls in the bounds of the conference this conference year. In compliance with this action the preachers' meeting last Monday morning arranged for union service for conference and prayer in Fletcher-place Church to-morrow at 2 o'clock. Dr. Coultas will lead the meeting.

A mass meeting of the Epworth Leagues of the city and suburbs will be held at Fletcher-place M. E. Church to-morrow night. Rev. T. I. Coultas and the Rev. L. F. Dimmitt will make addresses. Miss Louise Linebarger, of Chicago, the cornetist who has traveled over the world with Chaplain McCabe, will give several numbers.

A Useful Little Book.

W. H. Morrison & Co., of this city, have issued a "Compendium of the Fees and Salaries of County Officers" under the law of 1895, together with a complete list of State and county officers. It is a volume of handy size and contains a great deal of useful information for public offi-cers and those having business with them.

Dr. Craft's Reform Address To-Night. Rev. Wilbur F. Crafts will complete his present series of reform addresses in this city by speaking to-night on "The Imperiled Sabbath," with a report of his investigation of our city last Sabbath morning. The address will be at the United Presbyterian Church, corner East and Massachusetts avenue, at about 8 o'clock. Service begins at 7:20.

Incorporated Yesterday. The Belleview Mutual Gas and Oil Company, capital stock \$1,700; Indiana French Mirror Company, Connersville, capital stock \$10,000; W. W. Miller Saddle-tree Company, Madison, capital stock \$5,000; the Farver & Dodge Lumber Company, Shepehewana, capital stock \$10,000.

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And What It Suggests. It is an art or a science to know just how to keep comfortable. These cold days are but to keep comfortable. These cold days are but premonitory, or forerunners of what the weather may soon be. The suggestion they offer is "preparation"—that is, to be ready, and to be ready means don the best known underwear, such as the Dr. Jaeger sanitary wool garments. These goods are in union and two-piece suits for ladies and gentlemen. Paul H. Krauss's haberdashery, 44 and 46 East Washington street, is head-quarters for the Dr. Jaeger garments. Furnishings of all kinds.

> PENNSYLVANIA LINE DAYTON, O.

For the round trip, account Epworth League convention. Tickets on sale Oct. 21 and 22. Good returning until Oct. 25. GEO. E. ROCKWELL, D. P. A.

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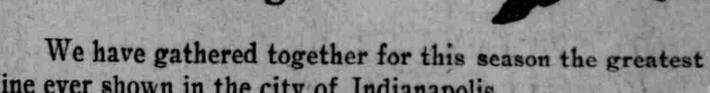
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